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Yet another 'tool for growth'? Labour migration policy and varieties of capitalism in France and Germany

Abstract

The salience of international labour migration in the 'competition state' and a return to active recruitment across the rich world challenges our understanding of national economic coordination processes. Departing from the Varieties of Capitalism (VoC) literature, this paper argues that labour reproduction cannot fully be captured in terms of national vocational education and training systems. Instead, we need to better understand to what extent policy forges foreign labour recruitment as yet another complement in a wider macro-economic competitiveness strategy. Evidence from document and interview analyses in France and Germany provokes ambivalent answers to this exploration. With regard to the beneficial treatment of high and specific skills entries, selection mechanisms for extra-EU migrant workers are clearly shaped by nationally distinct competitiveness strategies and narratives. They epitomise the aspirations of the 'competition state' bearing distinct characteristics of state-enhanced French and enabling German capitalism par excellence. The sectoral locus of foreign recruitment decisions in both countries and the specific German fixation on VET qualifications in admissions further follow well-studied economic coordination patterns. However, limits to non-EU labour entries for lower skills enforce a highly differential rights regime compared to high skilled entries. We observe a strong political demarcation of the 'competition state' logics in skilled and lower skilled segments, noticeably departing from orthodox economic coordination claims. This rests on a political imagination of a self-sufficient resident pool of labour, contained by domestic activation policy targets, EU free movement of labour, and, very distinctly in France, the management of a post-colonial resident population.

1 Introduction

"Professional immigration is [...] a tool for growth. [...] We find ourselves in a reasoning of international football, where the big teams recruit in the entire world, and it is these big teams that happen to be in the finals. So [...] if you were to limit your immigration options for great foreign professional players, you could not become champion." (FRA 6, GOV¹)

Talking in football metaphors, this French government official in the Migration Ministry² intrinsically frames the role of migration policy as enabling economic growth and facilitating foreign labour imports.

¹ FRA=France, GER=Germany; GOV=government official, UNI=trade union representative, BUS=business and employer representative, ADV=advisory expert; numbers distinguish interviewees further

² Officially: Ministry for Immigration, National Identity and Co-Development; created in 2007 and subsumed under the Ministry of the Interior with the government reshuffle in November 2010

An array of political economy literature explored and critiqued the state's involvement in achieving market goals -such as competitiveness - through policy and regulation. Jessop (2002) famously depicts the changing role of the capitalist state towards providing and shaping the key conditions under which a valorisation of capital and the reproduction of labour are possible. In the hegemonic discourse of the 'competition state' "the promotion of economic activities, whether at home or abroad, which will make firms and sectors located within the territory of the state competitive in international markets" becomes *the* main policy driver (Cerny 1997: 272; also see Sum 2009). The reproduction of labour 'at home' relies on shaping the conditions for competitiveness with an enforced emphasis on training, skills and skilling, and the activation of workers. 'Abroad' the competition state tries to facilitate economic growth and productivity through its 'managed migration' regime, and recent studies confirm that the logic of competitiveness through labour reproduction is indeed central to the highly selective migration systems in Europe and elsewhere (Menz 2009). Yet, the meaning and direction of labour reproduction differs across national contexts, and it is through the lens of the Varieties of Capitalism (VoC) literature that we can understand this diversity: VoC's emphasis on the vocational education and training (VET) system in providing the specific skills required in a particular mode of production mainly explores how labour reproduction is institutionalised 'at home'. Yet, I argue, VoC so far largely lacks to address the role foreign recruitment plays as an add-on strategy to the VET system in the economic coordination of skills provision (for exceptions see: Cerna 2009, Menz 2005, 2009).

In the 'migration age' (Castles and Miller 2009) mobility has become a key factor for worldwide economic growth and production, facilitated by the movement of capital, goods, services and also *labour force* to "where they can be most productively deployed" (Jordan and Düvell 2003: 28). Arguably, globalisation and the internationalisation of trade and markets have intensified these dynamics (cf. Ghosh 2000). After Western countries had suspended large scale 'guest worker' recruitment schemes after the 1973 oil crisis, a turn towards opening selective labour migration routes has been witnessed across the rich world since the late 1990s. Eventually, employment shares of foreign workers have become more substantial for a recent generation of newcomers in OECD labour markets, and reliance on migrant labour seems to have grown over the last decades. More precisely, the share of foreigners in employment has increased for the most recent immigrant population (those who arrived within the last 10 years), from a 12 per cent share for all migrant workers in 2007 to over 16 per cent for the most recent arrivals on OECD average in the same year (OECD 2009: table II.2).³ These data support the argument that competitiveness and economic productivity in any given country of the rich world seem to rely on foreign labour imports to a relevant, on average growing, and sometimes even significantly

³ For countries like the UK or Spain the figure for recent arrivals is almost twice as high as the one for all foreign workers with an over 20 per cent and 33 per cent share in 2007, respectively.

growing extent. Hence, an analysis foreign labour recruitment patterns can be expected to have important implications for our understanding of economic governance in different institutional settings. The focus here is specifically on the role of the state in the shaping conditions for economic coordination through its migration policy and the legal definitions of entry and selection mechanisms for different groups of migrants. So what path and meaning does policy create for labour migration and how is it linked, institutionally and discursively, to wider economic coordination patterns, if at all? To what extent can we perceive foreign labour recruitment as yet another complementing 'tool for growth' fit to provide the specific needs of a specific production regime, as the French official neatly suggested?

This paper examines these questions by comparing the current labour migration regime for third country nationals⁴ in two countries often discussed as significantly differing capitalist systems, France and Germany. This of course represents a slightly imperfect most different systems design, in which some outset characteristics are akin⁵. Germany exhibits the paragon coordinated market economy while France features a 'state-enabled' more *dirigiste* version with some characteristics of a liberal market economy (Kitschelt, Lange et al. 1999b; Schmidt 2002).

Using an interpretive policy analysis research design (Yanow 2000, 2007) two main sources of data are used to expose a) main divisions legislation creates to regulate labour migration from third countries and b) the rationales of policy-making, meanings and drivers behind these divisions. The first evolves from a document analysis (laws and decrees) and detects the main selection mechanisms and admission criteria for migrant workers and how they link to economic coordination paths (a detailed overview of routes and permits is offered for both cases in the annexe). Data from semi-structured interviews⁶ with 17 policy-making elites and experts in both countries then reconstruct the meanings, drivers, rationales, and tensions associated with the regulatory framework of labour migration. Interpretations from interviews enable a reconstruction of main narratives policy-makers use to distinguish between recruitment channels, explain selectivity mechanisms and limitations, and their meaning within wider macro-economic coordination. Interviews have been conducted in Berlin and Bonn in December 2009 and in Paris in April and May 2010. The concentration on TCN regulation does not mean to underestimate the role of EU internal migration; while not being at the centre of analysis here, free

⁴ I use the rather technical term 'third country national' (TCN) which is applied in EU regulation to distinguish between nationals, EU citizens with more or less complete free movement rights who are no longer considered migrants in the orthodox sense, and nationals from countries outside the realm of the EU whose status is regulated in conventional migration legislation. This is a necessarily Euro-centric approach and does not mean to imply any normative hierarchy of nationalities; yet, it nicely reflects the stratification that states like Germany and France apply in their legislation.

⁵ While the emphasis in French coordination is believed to be less on negotiation between social partners and more on state-enhancement than in Germany (Schmidt 2002), both theoretically share a pattern of non-market coordination mechanisms (Hall and Soskice 2001b) and a sectoral steering of the economy (Kitschelt, Lange et al. 1999a).

⁶ As the wider research project carried out for this PhD also entails the UK as a case study, some of the interview and document data are used as a reference to illuminate further some findings in Germany and France where appropriate. Interviews in London have been carried out since November 2010.

movement in the EU serves as an analytical context that directly shapes the conditions under which TCN – as opposed to EU citizens – can enter European labour markets.

In what follows, I will first locate cases in the theoretical framework of the varieties of capitalism and as a point of reference to assess migration policy as part of wider economic coordination (section 2). I will then analyse French and German labour migration policy in detail to explore how selection, residence and labour access regimes for migrant workers correspond with the presumed patterns of economic coordination (section 3). The discussion of findings will stipulate a reflection on interactions between foreign labour recruitment, economic coordination strategies, and the state's attempt to combine growth and competitiveness aspirations with other -often conflicting- political objectives (section 4).

2 Varieties of capitalism and labour migration

One of the most important claims of the VoC literature is that institutions matter, that their design and interaction are not coincidental but follow particular strategic patterns, and that these patterns cannot be changed easily. Institutional complementarities are at the core of VoC's analytical thinking, and the scrutiny of their role in economic governance has shown that there is more than one way of achieving competitiveness through firms' coordination across institutions, thus rejecting a one-size-fits-all neo-liberal approach and painting a heterodox vision of political economies. This section demarcates VoC's theoretical framework briefly, and locates French and German economic coordination in the debate.

2.1 Varieties of capitalism, institutional complementarities, state-led narratives

The idea of institutional coherence and complementarity in economic governance – already stressed by the French regulation school (Hollingsworth 1997; Hollingsworth and Boyer 1997) – serves as an analytical starting point in Hall and Soskice's (2001a) account of capitalist variation. To be productive and competitive companies have to negotiate and coordinate their activities across different institutional spheres, and they are inclined to do so, Hall and Soskice famously argue, in a mutually reinforcing way. Different product market strategies will lead to a different set-up of institutions to support competitiveness. Such institutional compliments operate in industrial relations, VET systems, corporate governance, inter-firm relations and relations with the firm's own employees, and they do so in a logical and functional manner as to support the product-market strategy of companies. The main comparative claim of VoC then is that this functionalistic interdependence of coordination mechanisms can take different, yet equally successful, shapes and directions. Hence follows the famous typology of liberal market economies (LMEs) and coordinated market economies (CMEs):

“Broadly speaking, liberal market economies are distinguishable from coordinated market economies by the extent to which firms rely on market mechanisms to coordinate their endeavours as opposed to forms of strategic interaction supported by non-market institutions.”(Hall and Soskice 2001a: 33).

Both feature their very own ‘comparative advantages’ in competition and wealth accumulation strategies. Institutional design closely relates to competition and innovation strategies that firms have developed and operate in different settings. LMEs firms rely on radical innovation and shorter term profitability to be competitive. They pay more attention to current earnings and tribute to shareholder values in their financial corporate governance, and their ability to raise capital on financial markets depends on their short term profitability. Flexibility in staff turn-over is essential to adapt to changing profitability patterns, and we find a concentration on the provision of general skills through the VET system to cater for highly volatile skill needs. Competition characterises inter-company relations (Hall and Soskice 2001a: 27-31). CMEs, by contrast, follow a strategy of incremental innovation supported by a financial system and corporate governance structures that issue companies with capital regardless of profitability fluctuation. Companies mostly draw on a highly-skilled and specialised workforce, and firm-specific skills are provided for in a specialised and diversified VET system. Skilled workforce is retained during minor recessions and corporate commitment to high-skilled jobs is secured in industrial relations through wage-bargaining, long-term employment tenures, protective work councils etc. Firm-internal structures reinforce network monitoring systems of long-term reputation; market shares and intra-company relations feature trust-based processes (Hall and Soskice 2001a: 22-27).

Much more than reducing their focus to the sphere of firm-level relationships, VoC assumptions about the complimentary character of social and economic institutions have come to challenge and rewrite the history of Western welfare states early on. In CMEs like Germany, rather than being an issue of power resources between labour and capital as orthodox welfare regime theory would have it, social protection is understood as an employer-supported incentive used to form and attract the required workforce with industry- and firm-specific skills. For companies’ high-value added and diversified product market strategy in CMEs it is essential to overcome the problem of employees’ tendency to invest in transferable generic skills to lower personal risks of unemployment (Estevez-Abe, Iversen et al. 2001; Iversen and Stephens 2008). Higher social protection levels are hence a way of recruiting the specific workforce needed and to sustain competitiveness. By the same token, lower protection levels both of employment and against unemployment in LMEs such as the US or the UK coincide with companies’ predominant reliance on generic skills. While we can certainly contest the validity of the axiom of rational employee decision-making that is put at the base of their skill formation preferences in this VoC literature, the notion of an almost all-encompassing complementarity of socio-economic institutions within

a production regime remains highly intriguing and has, as we will later discuss important repercussions in labour migration strategies as well.

One of the main criticisms of VoC – as of any historical institutionalist approach – has been its inability to define a 'point zero' in path creation or to accommodate possibilities of institutional change (Hancké, Rhodes et al. 2007). Yet, even attempts to go beyond institutional determinism and to account for 'path creation' and the role of agency in the design and changing of institutional settings stick to a basic notion of coherence and complementarity (Crouch 2005)⁷. By the same token, VoC also underestimates the state's role in shaping discourses about the desired directions of the national economy. We can draw on Schmidt's work (2002) to understand how institutions and state-induced discourses interact across regime types and have contributed to significant changes, but also continuities in coordination models over the last 30 years. To explore how labour migration policy is fitted into a wider macro-economic coordination process, therefore, means to account for both coordination mechanisms in migration regulation *and* the discourses revolving around institutions and processes in a state-led attempt to actively shape them. The analysis of policy-makers interpretations of labour recruitment mechanisms is at the heart of this study and aims to take the discursive dimension of economic coordination serious.

2.2 Coordinated, negotiated, state-led, sectoral? Locating France and Germany in VoC

While Germany is seen as the stereotype CME that features all of the characteristics abovementioned, France is considered slightly different in several ways, and has indeed be 'unclassified' by the original VoC approach in 2001 (Hall and Soskice 2001a) (see graph 1 for overview). Both countries traditionally rely on non-market forms of coordination, and the main locus of coordination is sectoral rather than national in both cases (Kitschelt, Lange et al. 1999b). Definitions of skill needs, whether to be catered for from the resident pool of labour and as products of the VET system or by importing migrant workers, are a matter of sectoral rather than central economic steering. Yet, several scholars have highlighted the more important role for state regulation of the economy in France as a form of more state-led or 'state-enhanced' capitalism compared to 'negotiated' or 'managed' capitalism in Germany (Coates 2000; Schmidt 2002). Negotiation is championed by social partners without much state intervention in Germany (wage bargaining, for instance), 'managed' capitalism is about self-management of companies and sectors as well as trade unions and work councils. The state then frames its own role as 'enabling facilitator' of coordination processes in firms and sectors, rather than as pro-active agent (ibid).

⁷ Criticism also castigates VoC's methodological nationalism and bi-polar vision of political economy, but seems at the same time willing to appreciate the notion of a spatially variable and nationally distinct filtering of common globalisation pressures (Pontusson 2005; Peck and Theodore 2007).

Graph 1: Classifications of France and Germany in varieties of capitalism

Approach (authors)	France	Germany
Post-war classifications	Dirigisme and state capitalism State-owned business, centralised capital distribution, indicative planning, research subsidies, socialization of elites in administration and business	Managed capitalism Neo-corporatism with important role for companies and social partners to self-coordinate across VET system, social protection, funding systems etc.
Varieties of capitalism (Hall and Soskice 2001)	Unclassified <i>CME case partly applicable (sectors of incremental innovations, but often much more state-enhanced)</i>	CME Incremental innovation; inter-company trust-relationships high and firm-specific skills; specialised and diversified VET system; corporate commitment to high-skilled jobs secured in industrial relations
Level of coordination in VoC (Kitschelt et al. 1999)	Sectoral CMEs Coordination shaped by sectoral level; status and group-based welfare provision as expression of consensual political systems is complement to sectoral coordination of economy; links to conservative welfare regime types (Esping-Andersen 1990)	
State narrative in VoC (Schmidt 2002)	State-led capitalism State as 'interventionist leader' supporting national champion companies; cross-shareholding practices; shaping conditions for 'French' competitiveness	Managed capitalism Reinforces CME claims largely; state as an 'enabling facilitator' with emphasis on self-coordination in sectors and firms without state intervention (e.g. wage-bargaining between social partners)
Systemic incoherence (Culpepper 2006)	Shift towards market-based models of coordination; yet government and companies' rhetoric endorses 'role of France in the world'; discursive repercussions of elite socialization	X
Capitalism 'of voice' (Loriaux 2003)	role of national elites; emphasis on France's role in the world; particular role for big national companies and cross-shareholding; big companies benefit most from state VET system	X

By contrast, Schmidt (2002) has described the role of the French state as an 'interventionist leader' that actively shapes conditions for firms' competitiveness institutionally and discursively. In a *dirigiste* tradition France used tools like direct ownership - in 1981 the French state owned 13 of its largest 20 firms -, indicative planning and strategic research subsidies to strengthen competitive sectors while abandoning the less competitive, and a system of credit allocation that favoured the creation of 'national champions', the developmentalist French state took a much more active role in shaping the economy than its German homologue (Hancké 2001; Loriaux 2003; Culpepper 2006). Culpepper (2006) insists that privatisations and other shifts to more market-based forms of economic governance since the 1980s were accompanied by a discourse with a particularly *French* flavour. Privatisations, for instance, have been directed by the government to favour the creation of big national champions. Cross-shareholding was actively promoted as a strategy to maintain the national character of French

companies and prevent foreign takeovers. Moreover, Loriaux (2003: 107) emphasises the role of French elites with careers across the private-public divide and a common socialisation "into a system of values that thinks in terms of national interest, of France's place in the world and in the world economy". So while German coordination is joint through partnerships and tri-partite or corporative institutions, French economic governance is allegedly tied together through a discourse of national economic interest transmitted by starkly overlapping administrative and business elites.

For both cases, changes and reforms to economic governance in recent years have triggered discussion about the validity of regime claims. But while evidence suggests that both France and Germany have introduced greater scopes for market-based coordination mechanisms, for instance in their capital provision regimes or in the protection of employment, we also find that distinct roles for the VET system, skills in the economy, or employee-relationships have persisted, and it is not appropriate to claim convergence to a one-size-fits-all LME model (Hancké 2001; Schmidt 2002). I therefore consider it helpful to use Schmidt's concepts of managed capitalism (Germany) and state-enhanced capitalism (France) as variations of CMEs as an analytical starting point.

3 Another tool for growth? French and German labour migration policy

I have so far described ideal-typical economic coordination processes in France and Germany. Let us now turn to empirical data to explore to what extent and how both the operation of labour migration regimes and the policy objectives and narratives behind them speak to economic coordination in managed capitalism in Germany and state-enhanced capitalism in France. How are selection tools and mechanisms interpreted in France and Germany, which aspirations for macro-economic coordination do they address, and where do they depart from them?

Let us briefly consider the main policy tools labour migration policy draws on in both countries, before analysing their application and meaning in more depth – graph 3 serves as an overview for what is a partly messy regulative area. For a more detailed overview of residence and work permits, routes of entry and selection criteria applied in both countries two overviews developed from document analysis are attached in the annexe. In both countries we can mainly distinguish between highly-skilled entries and shortage routes for skilled and lower skilled workers. In France, highly-skilled migrants can access without passing a resident labour market test (RLMT), an otherwise obligatory procedure to check the availability of domestic, resident or EU workers before admitting a TCN for a specific job. This applies to three new multi-annual (18 months to three years, often renewable) permits for so-called high potentials ('skills and talents', 'young professionals' and 'intra-company transfers') created in 2006, and to the permit for scientists created in 1997.

Graph 3: Main routes, permits and policy tools in French and German labour migration

	France	Germany
High-skilled route	<p><i>Permits:</i> scientific, skills and talents, young professionals, and intra-corporate transfer (18 months to 3 years); renewable (not for TCN from poorest countries)</p> <p><i>Access/tools:</i> eligible project or contract, often high prospective wages required; bilateral 'migration management agreements' set quotas for certain post-colonial migrations; access to entire labour market for 'skills and talents' and 'young professionals'; special treatment of domestic graduates (admitted for job search); can be used as exceptional regularisation of informal workers</p>	<p><i>Permits:</i> settlement permit</p> <p><i>Access/tools:</i> via resident labour market test (RLMT) only (apart from domestic graduates); postgraduate qualifications and/or high prospective earnings required</p>
Skilled shortage route	<p><i>Permit:</i> residence permit mainly as 'paid employee' for 1 year, renewable, into designated job only, work contract needed</p> <p><i>Access/tools:</i> via resident labour market test (RLMT) for all TCN, Bulgarians and Romanians; via shortage occupation lists for TCN in some jobs, more jobs for Bulgarians and Romanians; bilateral 'migration management agreements' list specific shortage admission options per country; can also be used as exceptional regularisation</p>	<p><i>Permits:</i> residence permits for duration of work contract, into designated job only, work contract needed</p> <p><i>Access/tools:</i> RLMT but into defined VET-skilled shortage occupations only (list)</p>
Lower skilled shortage route	<p><i>same permit as above</i></p> <p><i>Access/tools:</i> via RLMT for all TCN via special shortage occupation list for Bulgarians and Romanians no access into lower skilled jobs for TCN otherwise</p>	<p><i>same permit as above</i></p> <p><i>Access/tools:</i> RLMT but exclusively via bilateral agreements with EU pre-accession countries into defined untrained shortage occupations (list); additional labour market clause forbids any TCN recruitment in employment agency districts with high unemployment rates</p>

In Germany, highly-skilled TCN need to pass the RLMT but can immediately obtain a beneficial settlement permit ('*Niederlassungserlaubnis*'). Additionally to the high-skilled routes, both countries issue temporary permits for skilled and lower skilled workers who enter into shortage occupations – for one year with the 'paid employee' permit in France and for the duration of the work contract in Germany with the residence permit ('*Aufenthaltserlaubnis*'). Access is limited into professions with recruitment difficulties on the resident labour market, and demand established through the mentioned labour market priority examination, carried out by Employment Agencies, and/or manifested on occupational shortage lists. Germany further distinguishes two different shortage lists, one for VET-skilled and one for untrained workers, while France deals with different skill levels within the same shortage route regulation via the RLMT. For the shortage lists, however, France has issued two registers with different skill focuses for different regions of origin (Bulgaria/Romania for all shortages vs. non-EU only for skilled

shortages). Both countries also make use of bilateral agreements to select per country of origin in addition to shortage routes and high-skilled permits: Germany uses them exclusively to limit lower skilled and untrained shortage entries to prospective EU accession countries, while France more widely adopts so-called 'migration management agreements' which regulate and try to limit entries across skill levels from certain ex-colonial territories.

From the brief policy mapping above we can establish two main legislative areas of policy tools for each case, across which treatment of migrants differs substantially. French and German legislation largely distinguish between tools for attracting highly-skilled migrants and tools to measure and fill skilled shortages. This suggests a regulative concentration on high skill entries, which seem to be treated most beneficial in both countries, and about the role of shortage migration as add-on to VET-produced domestic skills institutionalised through the RLMT and shortage lists. The interview analysis will now allow for a specification of the use and meaning of both routes. What we moreover observe in regulation though is the use of several tools to limit flows beyond economic definitions, especially for lower skilled entries. Shortages are contained to include particular nationalities, occupations, and take account of wider labour market conditions in both countries. Policy-makers' interpretation of tools like the French migration management agreements, German bilateral agreements for shortage occupations, the application of RLMT and labour market clauses will reconstruct the meaning of labour migration, the specific treatment per skill level, and the limits on recruitment in the wider economic coordination process. What then do policy mechanisms and the narratives associated with them tell us about the soundness of VoC paths and patterns to understand labour migration (cf. graph 1)? The analysis in each case largely follows the above established division of legislative foci, while paying tribute to some of the cases' specific attributes: the treatment of high skills, shortage skills, and tools to limit flows beyond the economic reasoning. A brief policy context is offered before the data analysis.

3.1 French 'immigration choisie' – confirming patterns of a state-enhanced economy?

In France the word 'immigration choisie', articulated by the Minister of the Interior Nicolas Sarkozy in 2006, has become symbol and rhetorical incarnation of a selective labour migration approach. In the heated political context of urban ethnic minority riots in autumn 2005, opposition to 'throw-away' migration ('immigration jetable') (GISTI 2006) by part of the political left and the realm of NGOs, and more abstract debates about the condition of French republicanism, migration became a highly politicised pet subject of Sarkozy's presidency campaign in 2007. Against all odds, Sarkozy aimed to "profoundly transform immigration policy in France" (Marthaler 2008: 389) with a new migration law in force since 2006. The regulative aim was to tailor flows much more to the country's economic needs

rather than having flows ‘imposed’ (‘immigration subie’) on France by family reunion and asylum seeking with the aim of boosting the share of professional – and thus chosen – migration in overall flows to 50 per cent by 2012 (Le Président de la République and Le Premier Ministre 2009). In French law, policy discourse and objectives of policy tools we find a clear distinction between high-skilled international competitiveness schemes (first column graph 3, left hand side annexe 1), and shortage admissions in specifically skilled and partly also lower skilled jobs (last two columns graph 3, right hand side annexe 1). Lastly, limitations to economic reasoning apply mostly to lower skilled entries in a narrative much linked to post-colonial effects. Let us now scrutinise the three regulative areas in more detail.

State-enhancing capitalism: high skills in the French competitiveness narrative

Since 1998 France has introduced easier entry routes for high-skilled individuals for whom the RLMT is waived: first for information technologists and scientists, and in 2006 with the *Sarkozy Law II* that created three new multi-annual permit routes for ‘skills and talents’ (three years), ‘young professionals’ (up to 18 months), and ‘intra-corporate exchanged’ (up to three years) (see graph 4). What lies behind these tools? The rationale explaining liberalisation measures has been expressed in terms of international competition by administrators: “We equally have to acknowledge that today, with an internationalising economy; we punish ourselves when we build too big obstacles against workers’ mobility” (FRA 1, GOV).

The partly opaque definition of entry conditions under these permits as well as overlaps between permits (e.g. ‘skills and talents’, ‘scientific’ or the EU blue card) are emphasised as a strength which allows France to offer a large ‘toolbox’ for companies to recruit the talents and professionals they need (FRA 5, GOV). A strong notion of state-promoted national economic interest arises in the debate about the rationales for high-skilled migration in France and I suggest that this sits quite comfortably in a state-enhanced capitalist logic VoC scholars like Schmidt propose. The new permits for high-skilled migrants are driven by various objectives, the most commonly mentioned being attracting top elites and promising early career professionals (‘skills and talents’ permit), making use of domestic graduates and integrating them into the French labour market (job search permit for domestic graduates), and allowing for global knowledge exchanges on a firm level (‘intra-corporate transfers’) (FRA 1, 2, 6, all GOV, FRA 7, BUS). This is the very context in which our introductory quotation addressed high-skilled migration as a ‘tool for growth’ and a tool for international championship for French companies. In this competitiveness narrative, eventually, labour migration is not just an add-on to the French and European pool of labour but a distinct strategy of labour reproduction of its own to compete for the best professionals on a global level.

For government officials, the management of this toolbox of new highly-skilled permits requires a strong role for the state and labour migration regulation to facilitate economic competitiveness on a global market especially with regard to high-skilled migration. An employers' association official supports this view, stating that France is competing for 'potentials' on a global scale with Canada, the US etc. (FRA 7, BUS). Yet, interview data strongly suggest an important self-perception of the French administration as promoter, rather than just facilitator, of highly-skilled recruitment in line with Schmidt's (2002) account of 'interventionist leader'. The notion of attractiveness in France encompasses not just economically-derived needs and demands, but is linked to the 'splendour' or 'shining' (*rayonnement*) of the country and nation as a whole, and to the promotion of its role in the world (FRA 5, GOV; see Loriaux 2003 for a similar argument). Enchanting labels of permits such as 'skills and talents' play a part in this signalling: one Migration Ministry official portrayed this permit as 'revolutionary' in this very context (FRA 1, GOV); possibly no coincidental allusion to the grandeur of French history. Another expert emphasised the 'emblematic function' of permits to signal French openness (FRA 6, GOV). Even more so, another bureaucrat highlighted the administration's⁸ role to promote new permits among employers, and to educate them to a more conscious and embracing use of the created recruitment routes (FRA 5, GOV).

Given this variance between official rhetoric and employer definition of needs, we can almost witness a state-*enhancing* capitalism in French labour migration policies: the government seems to use high-skilled labour migration as a rhetorical tool to signalise France's openness and economic competitiveness to the wider world and its own residents in a way that is rather unrelated to acute manifest economic needs and skill definitions. This confirms Schmidt's (2002: 204) observation according to which the French state lost its power of market-making in the traditional dirigiste sense, but continues with its *market-shaping*. For labour migration, this puts the cause-effect-logic between economic lobbying for openness and a government's reaction with regulation upside down: it is the government that lobbies for new migration routes. In fact, employers do not seem to share the government's enthusiasm about new permits; they regard them as tool to recruit the workers they need in yet another, maybe slightly easier, way. Among employers, the interest of the French State to signal attractiveness is indeed perceived as a more relevant driver than the actual needs of the economy:

"The skills and talents permit, I think, reflects the interest of the French state, it is about France's attractiveness for highly qualified people [...] companies don't check whether it is a permit for skills and talents, or whether it is [something else]. They have a demand [...] and it is effectively that permit [skills and talents] that they are likely to use as it is the most vague, the one best adapted to the profile they need [...]. I am not sure that companies identify themselves with one permit or another; it is a tool for them." (FRA 7, BUS)

⁸ especially considering the French Bureau of Immigration and Integration (OFII) as contact point with employers and advisor on the use of different high-skilled permits

Along the same lines, employers have criticised the deficient communication on new permits and entry routes by the administration and castigate their lack of involvement in the definition of entry criteria, especially for the skills and talents permit (FRA 7, BUS). So while the initial reforms of labour migration before the new Millennium might have been reactions to employer lobbying such as *Medef's* demands for opening up to high skills (Menz 2009), the government's recent policies seem to have gradually been detached from a close coordination with economic actors and pursue other goals, tagged onto economic reasoning. State-enhanced management of labour migration seems to be the name of the game.

Constituting labour market borders for skills: the treatment of economic shortages

Despite the administrative publicity for the three new permits for high-skilled workers and facilitations for France-based graduates, the most commonly issued permit is the temporary one for paid employees (*salaré*). Almost 16.600 of a total of 28.300 workers admitted in 2006 were paid employees. Most of the increase in professional entries in 2008 is in fact witnessed in the framework of the diverse temporary permits rather than skills, talents, young professionals etc., with admissions of paid employees more than doubling in this period (Sénat de la République Française 2010). The relatively low salience of highly-skilled entries as opposed to paid employees under the shortage routes further supports the argument that 'immigration choisie' is at least partly a state-enhanced vision about the role of high-skilled migration in the French economy, rather than an empirical economic reality or necessity.

The permits in the shortage occupations – either defined on shortage lists or established through a tension degree between offer and demand on the resident labour market in the RLMT – are not linked to targets of international competitiveness or attracting elites, they speak to acute or mid-term shortages on national, regional, or sometimes even district level of the labour market. The rationale addressed by interviewees in this context is thus the satisfaction of urging economy and labour market needs, rather than international competitiveness strategies (FRA 1, 2, 6, all GOV). The temporary permit gives access to the designated job only (or a special professions according to discipline of studies for graduates), but some categories open up to the whole labour market after two years of residence. Any professional activity under a temporary residence permit, requires a work contract and a constituted demand of foreign workforce after a RLMT (République Française 2010: L313-310). A structural labour shortage in a profession, sector and region has to be established by the employment agencies before a company can employ a TCN worker outside the high-skilled realms. Required work authorisations are distributed by Regional Employment Agencies (*Directions Départementales de l'Emploi, du Travail et de la Formation Professionnelles*) on the basis of a 'tension degree' (*taux de tension*) between offer and demand in a given sub-sector and region. Unemployment in a sector and/or region will thus prevent

migrant worker admissions under this labour market protection regime (*opposabilité de la situation de l'emploi*). This institutional setting for shortage entries speaks to VoC in several ways. It:

1) supports the claim made earlier in the theoretical section that labour migration is a component of economic coordination: as an add-on strategy where the resident labour market and VET system are unable to cater for economic needs.

2) indicates a sectoral (and regional) treatment of shortages in a way that Kitschelt et al. (1999) would have us expect for France as well as for Germany.

3) demonstrates a strong role for regional Employment Agencies to monitor resident employment and reflects a relatively rigid and protective labour market typical of French economic coordination. Employer interviewees subscribe, at least rhetorically, fully to their role in fighting unemployment of some vulnerable groups of workers in France before admitting newcomers (FRA 7, BUS).

4)

Yet, the economic definition of a shortage is filtered through other sets of objectives for some nationals and spoils a straight forward VoC interpretation. Several interviewees discuss the boundary between 'normal' and 'abnormal' shortages, making links between migration as recruitment strategy on the one hand side and lower skill levels of the profession in shortage, resident unemployment figures, activation policy objectives and the attractiveness of certain jobs to the unemployed population on the other:

"It's not completely normal that we lack wood-cutters in France, if you wish, this does not demand a high qualification. [...] We should be able to demand and offer a job to low-skilled unemployed people in France, as a kind of obligation. But we most often find that, unfortunately, that's not what happens, meaning that the individuals under consideration are not capable or willing to do the job" (FRA 6, GOV)

"We do not strive for low-skilled jobs. And I also think that immigration, whether regular or irregular, is attracted by real job perspectives in Europe" (FRA 6, GOV)

"Because in France [...] there is a co-existence of a high unemployment rate [...] and at the same time non-satisfied demands for labour of companies, as there is no evident correlation between these two populations." (FRA 7, BUS)

It can be argued that the complex tensions between the government's aim to protect and activate the national workforce, French workers' reluctance to fill low-skilled low paid jobs, and a continuous economic demand for labour also in lower skilled segments of the labour market creates and sustain a structural demand for informal workers on the French labour market (cf. Morice 1996; Terray 1999). While policy might not always acknowledge this interdependence, for reasons linked to electoral rhetoric

more than inability to perceive it, labour demands will be filled one way or another, including via informal recruitment patterns.

Anderson's and Ruhs' recent work has powerfully exhibited the role of the state and public policy in shaping opportunities and constraints for migrant recruitment, for legalising or illegalising flows, and for conditioning and channelling companies' use of migrant workers (Anderson 2010; Ruhs and Anderson 2010). Interestingly, this relationship is theoretically acknowledged by a policy-maker – who argues that migration always follows 'real job perspectives' – but by the same token this is not internalised as a French problem with specific implications for the situation of the *sans-papiers*, and the rhetoric of predominantly high skill needs prevails. This is maybe the most obvious example of a clash between the state's vision of economic coordination practices to balance the use of resident labour, own VET system and add-on strategies of foreign recruitment on the one hand side, and the socio-economic reality on the other. It also exposes VoC's incapacity to account for segmented labour markets and the role of the lower skilled segments of a national economy – such as catering and hospitality, cleaning, construction etc. – as an auxiliary supporting the prestigious high value-adding 'national champion' industries which labour migration policies and economic coordination might focus on.

Managing post-colonial repercussions: regulative limits for low-skilled entries

We already established above that the selection of migrant workers in France departs from merely enabling companies' recruitment needs, to articulate a state-enhanced vision of competitiveness, the shape of the economy, and the role of migrants in it. For the shortage narrative, we have seen how political objectives for the resident labour force interact with economic demand definitions, leading to structural shortages that are often filled by informal workers. But interviewees and critics have also argued that the meaning attached to permits like 'skills and talents' by policy-makers, rather than just enhancing a vision of economic coordination, reflect an attempt to rhetorically restructure the composition of migratory flows towards France (Ferré 2007; GISTI 2007; Cornuau and Dunezat 2008; ; also see FRA 3, UNI, 4, ADV). Policies aim to channel flows into the newly created and enchantingly labelled high-skilled entry routes while cutting back on unwanted flows. This pattern has been observed across Western labour migration regimes (Baganha, Doomernik et al. 2006; van Houtum and Pijpers 2007), but it carries a particularly post-colonial flavour in a country like France. In practice, I hence argue, both the competitiveness and the shortage narrative interact strongly with selectivity by country of origin and, more precisely, post-colonial effects. We need to depart from VoC understanding to account for this interaction.

With the tool of migration management agreements⁹ France negotiates specific quotas for skills and talents, post-graduate job seekers or young professionals from some of its former colonies and it asks these countries to limit and control informal flows from their territories in return. Ceilings have never been met so far and do thus represent a symbol rather than a limitation for highly-skilled entries from former colonies (FRA 4, ADV). But the links between control of irregular flows of the so-called *sans-papiers* – often into lower skilled segments of the formal and informal labour market – and entry conditions and volumes for the higher skilled turns labour migration into a post-colonial population management activity, rather than a mere response to economic needs. Management agreements signal to TCN from Gabon, Congo-Brazzaville, Senegal etc.: you are welcome if you are highly-skilled. The government's commitment to boost the share of professional 'selected' migration in overall flows to 50 per cent by 2012 hence can also be understood as a state-led re-composition of the resident population (FRA 3, UNI). This political dimension of labour migration links to academic accounts of an *ethnicised* dismantling of a formerly encompassing republican rights regime over the last three decades or so (Hollifield 2004; Hargreaves 2007). Bilateral migration management agreements aim to *manage* perceived effects of decolonisation alongside reforms of the integration and citizenship regime. So societal concerns add to the general economically-driven permit system for high-skilled entries and embody a range of selection tools that cannot be fully accounted for with the tools VoC offers.

We find most pronounced political limits to economic entry definitions in the treatment of Algerians. These nationals enjoy more rights in theory as they – once admitted – have to be admitted with generic universal labour access rights according to current bilateral regulation. In practice, however, the liberal Algerian-French rights regime means that access as worker is harder to obtain for Algerians as the state tries to limit otherwise uncontrollable flows from the outset where possible. They are thus exempted from all new migration entry routes (FRA 3, UNI; 2, GOV; 4, ADV). For the other former colonies, the migration management agreements represent an amalgamation of control targets regarding resident *sans-papiers*, their home country's colonial links to France, and the opening of limited entry channels to high-skilled individuals from the same countries. 'Chosen immigration', in this context entails an attempt to exchange and substitute the resident *sans-papiers* population – often trapped in lower skilled and low pay jobs – with a well selected higher skilled population (FRA 1, GOV).

⁹ France has signed 9 accords so far with Senegal (2006), Gabon, Congo-Brazzaville and Benin (2007), Tunisia, Mauritius and Cape-Verde (2008) and Burkina-Faso and Cameroon (2009) and another seven accords are planned until 2011, among others with Mali, Haiti, Philippines, Nigeria and Egypt (Carrère and Duval 2009). The Migration Ministry (MIIIDS 2010: slide 34) stated in April 2010 that an agreement has also been reached with Brazil; while three new accords are initiated with Mali, Egypt and India. As responsibilities shifted to the Home Office, information varies even within administration, negotiations are constantly ongoing and specific agreements signed with each country, it is hard to keep track of all details of this policy tool.

A last area to challenge VoC's explanatory scope of economic coordination in labour migration policy concerns the differential shortage lists France applies since 2008. Work authorisation procedures and RLMT have been waived for 'professions and geographical zones with recruitment difficulties' and were pinned down on shortage lists. They are applied highly differentially though: there is a list for EU nationals from Bulgaria and Romania – valid until free movement is completed – which comprises 150 professions, including not only high qualified but also unskilled jobs¹⁰ and giving access to the whole French metropolitan territory. The second list then applies to all other potential third-country migrants; it is much shorter with only 35 mainly skilled and high-skilled professions¹¹, and it is bound to regional shortage definitions. The general gist of the lists seems to be an opening 'à deux vitesses' for EU nationals and for TCN workers, with only the former being able to enter lower skilled professions.

This has been interpreted as misrecognition of a labour migration reality and practice of low-skilled TCN employment, often in irregular situations (Carrère 2008). This criticism becomes even more relevant when we consider that TCN shortage list also serves as a tool of ex-post 'exceptional admission' of *sans-papiers* employed in shortage jobs, with the aim to legalise some already resident workers before admitting any newcomer (GISTI 2009). The administrative focus on high skills and skills among non-EU workers has eventually been criticised as an 'administrative joke' by observers from the NGO community, who, when rumours about potential case-by-case regularisation got louder, had hoped for a larger list that reflects the often low-skilled employment conditions of many TCN workers in France: "As if in the high circles of power they did not know what everybody knows, that numerous *sans-papiers* in France are employed on the most ingrate construction sites, as dishwashers in restaurant kitchens, or to clean car parks in the night" (Carrère 2008). In the absence of a satisfactory French/EU pool of labour for lower skill needs, this border definition continuously forces lower skilled TCN workers into informal employment situations and creates a double precariousness – of residence and employment status – with serious implications for levels of workers' exploitation (Morice 1996; Terray 1999; Anderson 2010).

Summarising links between French labour migration policy and VoC

The French use of migration for labour reproduction seems to be state-enhanced for the highly-skilled segments linked to the government's vision of competitiveness as well as the role of migrants in the economy and society. New 'emblematic' permits are tailored and indeed narrated to support the

¹⁰ It lists unskilled or low-skilled jobs such as window cleaners, housekeepers, carers for children, caterers and service staff in restaurants, woodcutters, metal workers in industry, coppersmiths, machine tool operators, concrete contractors etc.

¹¹ The TCN list comprises mostly qualified jobs such as land surveyors (geodesists), IT specialists, several types of engineers, site managers or other skilled construction jobs. By contrast, especially jobs in unskilled construction work, catering, cleaning and housekeeping – which are believed to be the main employments of irregular workers – are missing.

country's and market place's 'splendour', confirming VoC assumptions of state-enhanced capitalism. These permits are heavily promoted in government rhetoric while remaining largely unrelated to employers' demands. For the shortage routes, sectoral approaches to shortage measurement both through the RLMT and lists confirm sectoral coordination paths as proclaimed by some VoC scholars (see graph 1). Yet, the mix of market logics and political admission decisions especially in lower skilled shortage routes indicates limits of VoC explanatory capacities for labour reproduction through migration. On the one hand, in RLMTs and shortage lists, labour migration presents itself as a mere technical decision following offer and demand and act as add-on to resident labour reproduction. But on the other hand, the establishment of a much reduced shortage list with mainly high-skilled professions for TCN workers seems politically motivated: this explicitly limits complimentary mechanisms in labour reproduction and contradicts labour market realities of low-skilled informal migrant work. While the economic play of offer and demand is embraced for most skilled shortages, lower skilled gaps have to be filled from the national and EU labour market excluding informal TCN residents. Migration management agreements with former colonies add to a picture of a highly political post-colonial population management tagged onto economic need definitions.

3.2 'Steering migration' in Germany – logical extension of managed capitalism?

In Germany the need for a migration admission scheme was articulated alongside the introduction of the so-called Green Card for easier admission IT specialists in 2000 by then Chancellor Gerhard Schröder. The chancellor's initiative made the debate of whether Germany was a country of immigration or not obsolete. Regardless of the persisting myth of not being a country of immigration, the consensus shifted towards a recognition that Germany "had to attract highly-skilled immigrants to remain economically competitive" (Green 2007: 112). Demographic considerations like the declining potential support ratio between dependent and contributing people, but also increasing labour shortages especially in skilled sectors, and a global competition for qualified personnel came to increasingly determine the public debate around migration (Unabhängige Kommission 'Zuwanderung' 2001). It is worth noting that demographic decline is experienced more severely in Germany than in France and serves as a much more pressing structural feature eventually also in political debates. Menz (2009) has observed a clear demand-driven economic approach towards labour migration since the later 1990s in Germany, steered by employers who first demanded the introduction and later the extension of the Green Card regulation to other sectors short of qualified staff. So after some political tensions and electoral power games in the second legislation chamber the *Zuwanderungsgesetz* eventually came into force on 1st January 2005.

This first comprehensive German Migration Act aims at “regulating and limiting migration” with an explicit focus on the regulation of labour market access for workers (Bundesrepublik Deutschland 2004). Besides revised definitions of asylum, some liberalising changes to citizenship and naturalisation practices and the enforcement of integration measures, residence permit statutes have been simplified and partly made more attractive for migrant workers. Most important has been the creation of a permanent settlement permit for highly-skilled workers and a temporary permit as well as lists for shortage skills. The debate remains topical in Germany with the Ministers of Economics and Trade, Labour, and Education calling for an urgent and more far-reaching facilitation of access for specifically skilled workers, especially engineers (Der Spiegel 2010).

Clear stratification of rights per skill level: complementing the high-skilled economy

Germany displays a clear stratification of entry and residence rights attached to a skill ladder drawn by the law (see graph 3 and overview in annexe 2), and much more pronounced than in France. Skills are *the* main categorisation mechanism in legal texts which deal with highly-skilled, skilled and unskilled workers in different paragraphs. High-skilled migrants¹² are treated most favourably and can access more extensive sets of rights than others: they can be granted immediate settlement, also for job search (*Niederlassungserlaubnis*) while skilled or unskilled newcomers only receive temporary residence permits for employment under very specific conditions (*Aufenthaltserlaubnis*). The former permit allows high-skilled foreigners to settle without limitations and with free access to the entire German labour market for themselves and their family members while the temporary permit ties migrant workers to a sector and specific job contract (this route will be addressed in more detail in the next section). Employers in interviews frame this beneficial treatment as essential for the German macro-economic position in a world-wide knowledge exchange, for remaining a successful location of innovation in global competition, and for providing social goods (GER 7-8, BUS). As in France, there seems to be a strong sense among policy-makers in Germany that high-skilled migration serves the national interest (GER 9, GOV), or more specifically national *economic* interests. Success in a global competition for the brightest minds¹³ is facilitated, interviewees believe, through uncomplicated labour market access for TCN

¹² The German law uses two proxies for high skills leading to access via the settlement permit: postgraduate level qualifications (or equivalent professional experiences) and prospective high salaries currently set at the double average wage of German workers, i.e. an annual salary of €63,600 in 2008 (Bundesrepublik Deutschland 2008). The assumption is that these highly qualified and well remunerated individuals – e.g. researchers, engineers, managers – will easily integrate in the labour market and contribute to growth and productivity (GER 2, 3, GOV).

¹³ While interviewees agree on the objective of attractiveness for high-skilled migrants, some criticise that the reality does not live up to standards yet (GER 7-8, BUS; but also GER 4, ADV). De-incentivising aspects raised concern language and culture (non Anglo-Saxon), the lacking immigration tradition, deficient integration prospects, obstacles to the recognition of qualifications, lower remuneration, complexity of application and entry procedures, and lastly the weather (employers but also government officials raise these).

including their partners, the newly created settlement options, the relatively generous labour law, job security, and the welfare and social protection system (GER 3, 5-6, 9, 10 GOV; 4, ADV; 7-8, BUS).

Despite government officials' emphasis on the merits of the new settlement permit and its role in attracting elites, discourse around high-skilled entries in Germany has been much more technocratic and less emblematic than in France. This is reflected not just in interviewees' more distanced and unemotional framing of the permit but also its very technical labelling (simply coined 'settlement permit') – quite far-off the French 'skills and talents' permit and its link to promoting the country's splendour. We find a much more pragmatic and technocrat pattern of 'enabling facilitator' (Schmidt 2002), which is clearly expressed by one Home Office official:

"[...] the role of residence regulation has to be facilitating to some extent. So, residence legislation is no end in itself but a means to achieve certain objectives. That concerns the mentioned objectives, our interest to recruit high and highest skills. So, we have to design our residence law in a way that does not discourage the Canadian professor to come to Germany because he has some problems with the labour market access for his wife [...]" (GER 10, GOV).

Apart from this discursive VoC link, the highly differential treatment of migrant workers across skill levels speaks to VoC in two interesting ways. It generally seems to address the CME's pattern of a high-skilled economy, and that self-perception is then enabled by means of public law for migrant recruitment. It also confirms the claim that high and specific skills typically required in a CME are courted by means of high levels of security and protection, and we see in the German case how this is translated for migrants from the usual job and unemployment protection into residence and labour market access security by means of the *Niederlassungserlaubnis* (Estevez-Abe, Iversen et al. 2001). One official refers to the social protection system as a particular strength in the competition for talents, more clearly speaking to the logical link between specific skills-based economy and social protection Estevez-Abe et al. diagnose in CMEs: "Our social protection system and our labour law is indeed a trump card that we can make the most of. It equally protects foreign employees [...] and is interesting for the highly qualified." (GER 3, GOV).

Fascinatingly, this typical CME role for social protection plays to attract domestic specialised workers for the high value and highly diversified product market strategy is mimicked in the residence and labour market access rights regime for high-skilled migrants. The treatment of high-skilled migration in Germany can therefore be understood as a logical extension of VoC mechanisms of social protection to institutionally complement and support the CME mode of production and competitiveness also for foreign recruitments. Policy-makers adhere to the idea that in order to attract the specifically and high-skilled employees from abroad that, regulation needs to offer benefits and welcome workers "with a red carpet" (GER 3, GOV). And it is through the tool of residence rights that German administrators think

they can best provide this red carpet (GER 10, GOV, also GER 2, 9, GOV).

Specific skills in a CME: institutionalising sectoral and VET-related needs definitions

In the shortage routes for skilled and unskilled TCN, in contrast to the beneficial treatment of high skills, applicants need a concrete job offer and the temporary permit is directly linked to the duration of the employment contract (see graph 4 and annexe 2). It is valid for at least 6 months and can be renewed, unless the employment is interrupted or when the Federal Employment Agency – mainly in charge of the unemployment insurance and activation policies – raises labour market concerns. Any change of job has to be officially consented and workers usually have to remain within their initial sector of employment unless the Employment Agency permits otherwise. The temporary permit is moreover restricted to occupational sectors the Ministry of Labour has defined on a shortage list (Bundesministerium für Wirtschaft und Arbeit 2004). Migrants must display a specific skills profile in particular professions and sectors to be admitted via the occupational shortage routes (see central route in annexe 2). The definition of 'skilled' (*Fachkräfte*) in regulation involves a VET certificate equivalent to 3 years of vocational training in the German system in the respective shortage occupation. Unskilled workers¹⁴ are those whose qualifications do not match a VET certificate by German standards, and their admission is linked to bilateral agreements exclusively as a later section will qualify in more detail.

This close link between selection criteria, skill definitions and the standards of the German VET system almost functions as an extension of a particularly German CME mode of reproducing labour to external territories. Interviewees, indeed also employers, interpret this skills governance regime as a protection of the German VET system and a tool to control and guarantee the quality of imported curricula (GER 7-8, BUS). German VET certificates remain the bar any skilled worker has to jump over if he/she wants to be admitted to the German labour market. This logic also applies to what I would coin a *domestication of foreigners* through the German VET and higher education system: easier labour market access for domestic graduates¹⁵ is treated as a matter of adequate use of domestically-trained and hence adequate 'resources' mainly¹⁶ (GER 2, GOV). Departing from the 'VET-bar' approach, a better recognition of qualifications of TCN residents is demanded to facilitate an improved use of domestically available 'potentials' (GER 3, GOV). This mainly addresses asylum seekers (*Geduldete*), who are currently not allowed to work until they have been resident for at least a year and are subordinate to

¹⁴ The list for unskilled labour shortages comprises seasonal workers, carneys, Au-pairs, house keepers, entertainers and vocational trainees (ibid).

¹⁵ They can now job search after degree without having to go through resident labour market test. By means of extension beyond the territorial realm, this also applies to quasi-domestically trained graduates from German schools abroad.

¹⁶ Issues linked to brain drain are considered (GER 10, GOV).

German and EU jobseekers. This does less concern the maintenance of German VET standards in recruitment decisions than the potentials for a pragmatic utilisation of resident labour so far forcedly inactive (GER 2, 3, 9, 10 GOV). In one way or another, German regulation practices hence incorporate the domestically trained and residents into an imagined skilled resident pool of labour available to fill gaps before companies can draw on newcomers. The legal obsession with the VET system in migration regulation is remarkable and much more explicit than in French skills definitions.

Specific needs are also expressed on lower skills levels but they are strictly linked to VET standards. While all interviewees deny demand of *un-trained* workers, some claim that low, but specific VET-trained skills in the care or hospitality sector are needed – currently and in the future – due to demographic changes (GER 4, ADV; 7-8, BUS). The framework of reference for skills, once more, is the German VET system, stipulating the idea of training as a certification of skills available and supported also on lower qualification levels. This is true for carers who enter via the low-skilled route and need a proof of sufficient VET qualifications and/or professional experience in the sector. The German fixation on the VET system as legal reference point eventually further stratifies rights in the lower skilled migration routes by type of qualification: the distinction then is between the un-skilled who have no certified skills equivalent of German VET standards, and the low-skilled but specifically trained and VET certified who work in lower end segments of the labour markets. And while the (allegedly) untrained have no place in any of the discourses – apart from seasonal workers – those with a specific certified training might be considered useful.

Departing from technicalities and turning towards meaning of tools, German officials emphasise 'flexible and demand-oriented recruitment' as major 'strength of the system' (GER 3, GOV). Officials in both Home Office and Labour Ministry argue that their role is to *react* to changes in the labour demand of companies, the labour market structure and the economic situation (GER 5-6, GOV), and imply that a demand-led system is best able to provide this, rejecting the concept of a supply-led points-based system. As demand is perceived to be uneven, generic supply regulation is not considered appropriate: "We don't have skilled demand across the board, but [...] my feeling is that [...] we will be able to reduce it to certain key industries and sectors." (GER 2, GOV; also: GER 5-6, GOV; GER 7-8, BUS)

The sectors mentioned are engineering in general and IT engineering in particular, but also care and medical professions. The limited occupational shortage list for skilled professions clearly expresses sectoral needs, currently including language teachers, IT specialists (incorporates the old Green Card), blue collar workers and specialists, social workers, care workers and intra-corporate transfers (BMAW 2004). We find that this *sectoral* approach is mirrored in coordination patterns of needs assessment as well, and as in France follows coordination processes along logics of sectoral CME (Kitschelt et al. 1999). The German approach goes beyond the French one in terms of institutional crystallisation: to

institutionalise regular sector-focused need analyses and feed them into migration legislation, the government has initiated an ‘alliance on skilled workers’ (*Fachkräfteallianz*) in 2009. This brings together some government resorts - such as Labour, Economy, Education, Home Affairs - the *Länder*, trade unions, employers’ associations, Chambers of Crafts and of Commerce, some companies and board members, and researchers to measure demand¹⁷ and offer a demographic and economic evidence base for both own education efforts and migrant workers recruitment as an add-on:

“[...] this is to say, which kind of demand will we have in which economic sectors due to the demographic development and structural changes in the economy in the future? For instance: will we continue to need as many engineers? Or how many care workers do we need?” (GER 3, GOV)

While it is too early to judge on the outcome and impact of the alliance, the focus of demand definitions facilitated by the German government is on *sector-specific*¹⁸ and *profession-specific* assessments and solutions. The current political debate about facilitations for some specialists and a concentration on ‘key industries’ point further into the direction of sector- and occupation-based need definitions.

Shielding low-skilled self-sufficiency: the role of the resident and EU pool of labour

The largely facilitating, VET-related and sectoral *economic* coordination of labour migration in Germany features strong political limits for lower skilled shortages. The economic space of a labour market gap is demarcated and curbed further in a narrative that highlights self-sufficiency of the resident labour market through the own VET system and drawing on an extended EU pool of labour. Legislation displays clear links to the resident labour market, and several mechanisms – in some ways similar to the French procedures – shall guarantee that migrant labour is an add-on, not a replacement of resident workers. As indicated before, all temporary permit applicants need to produce a concrete job offer and pass the RLMT (graph 3, annexe 2). So economic demand measurement will not directly be translated into migrant recruitment, but be curtailed to strike a balance with the resident and EU labour market situation and education prospects of current and future resident workers. This is where protectionism of the national labour force, both current and prospective, kicks in to demarcate the *social*, rather than purely economic space of a labour market gap as a legitimate place for a migrant worker to fill:

¹⁷ Interviewees discuss companies’ reluctance to disclose demands in a competitive surrounding, swiftly changing economic conditions, and inability to calculate concrete numerical demand as main obstacles to reliable measurement.

¹⁸ Trade Unionists criticise this sectoral approach as fragmented and castigate the differential rights regime applied to the fragmented categories of migrant workers (GER 1, UNI). Alongside other policy advisors they further argue that a qualification-based generic recruitment through a points-based system would better equip migrants to find other jobs shall their sector suffer from economic downturn and job losses (also: GER 4, ADV).

"We always need a dual strategy: back then we linked regulation [Green Card] to a further education and training programme for domestic IT specialists. For we always face this issue in Germany during high unemployment: "Why are you recruiting people from abroad when people are at the streets here?" This conflict needs to be tackled." (GER 9, GOV)

"[...] there are significant potentials for domestic employment, especially in the health professions, which should be made use of, through targeted education and training measures in precisely these areas." (GER 7-8, BUS)

"This is comparing apples and oranges. [...] To give you an example: It is always claimed that we have enough engineers ourselves. But not quite the ones we actually need! Hence, I need a dual strategy: a further qualification of the skilled [residents] and migration." (GER 4, ADV)

All interviewees cited above convey a dilemma between current economic demands and the political aim of reproducing the required labour force mainly through efforts within the own VET system and activation of the unemployed. They address specific skill needs in the context of mismatches on the labour market, which result in a coexistence of unemployment and labour market gaps. The 'dual strategy' referred to by two interviewees favours the recruitment of migrants into current economic gaps but at the same time demands and investment in specific training to increase job opportunities of the resident labour force and close the gaps self-sufficiently in the future (cf. for UK examples of the same reasoning Ruhs and Anderson 2010). This supports a notion of institutional complementarity between migration and VET as reproduction strategies again, but also highlights the state's attempt to actively incentivise companies to use resident and VET-produced skills more. We have observed this logical link of VET (as the desired main source of labour) and migration policy (as add-on where VET fails to provide skills needed) in France, but policy-makers considered it to be much more essential in the German case. Skilled and low-skilled migration, in this respect, is believed to hamper own education efforts (GER 3, GOV, 7-8, BUS). This interdependence assumption confirms and expands the systemic coherence argument made by VoC scholars: labour demand staying equal, any shifts or limitations in one regime will increase the necessity to use the other to fill actual economic gaps¹⁹. The almost orthodox German CME response seems to be: investment in domestic and resident training linked to projections of economic needs to be less dependent and exposed to the need to recruit from abroad. Hence, the labour market gap is no simple statistical entity referring to current economic demand and supply for a specific job position. By contrast, shortages are demarcated in light of political aspirations about the current and future labour market participation of residents.

¹⁹ This point is discussed in an intriguing fashion by Bach (2010) for the UK case of nurse and doctors migration. He demonstrates how an active VET policy initiated by New Labour in the 2000s has reduced the UK's traditional reliance on the import of medical staff. By the same token, he argues, the decision not to fund VET over decades in health professions has lead to a reliance on migrant workers in the first place.

This leads us to the wide-spread denial of low-skilled economic demand in Germany by policy-makers and employers alike, with the exception of seasonal agricultural work: “[...] we just have no use for unsteered or lower skilled migration in Germany.” (GER 10, GOV). The main rationale behind the wide contestation of low-skilled demand stems from national labour market and activation policy considerations. Lower skilled access is legislated most strictly of all channels dictating the usual RLMT, but also a bilateral agreement, and a labour market clause that forbids foreign recruitment, irrespective of economic needs, if unemployment in a particular district of the Federal Employment Agency (*Bundesagentur für Arbeit*) is considerably high. Officials see this as a double targeting of the unemployed as a workforce to be activated and a politically susceptible group to be protected:

“By no urgent means do we need lower skilled workers. [...] We have enough resident job seekers who we would like to activate and lead to employment in that context.” (GER 3, GOV)

[talks about demand for seasonal agricultural workers] “I do not see that for other sectors. Well, [...] unemployment of the lower skilled is still so high as to make it [recruitment of foreign workers] politically difficult to image. (GER 5-6, GOV)

Activation policy targets, as in France, are discursively linked here to the imagination of a domestic pool of labour that should be self-sufficiently filling lower skilled shortages. Yet, this debate is not linked to discussions about informal workers or residents, apart from the above mentioned aim of utilising asylum seekers’ skills more adequately in the future. Informal migrant labour is completely absent from the German policy-making debate. One explanation is that different from France, interviewees in Germany do not perceive any influential external migration pressure on the borders or within their territory; the lack of colonial links and geographical distance to the peripheries of Europe allegedly cut off links to what one government official coins ‘poverty migration’ (GER 10, GOV) and creates a ‘relatively unencumbered’ situation for policy-makers (GER 5-6, GOV). Without discussing the empirical truth²⁰ of this claim, one thing seems evident: The alleged non-demand for low unskilled labour beyond seasonal work manifests in the social spaces created in laws: there is no legislated space for economic migration from poorer non-EU countries into other than high qualified jobs. This is a blueprint very similar to the French, even though it lacks the post-colonial dye.

As in France, the perceived self-sufficient pool of labour and reproduction is legally extended to the EU in German regulation. The widely uncontested belief among policy-makers is that free movement of workers in the enlarged EU caters for the total of lower skilled needs, and thus renders obsolete any TCN migration into lower skilled jobs in Germany now and in the future (including seasonal agricultural

²⁰ Estimates for the late 1990s suggest that there are around 500,000 informal residents in Germany with 70 per cent of them potentially employed in informal often low pay and low skill jobs (Boswell and Straubhaar 2004).

work and care demands). Free movement in the EU figures important in all interviews as potentially one of the most important contexts in which lower skilled migration management is framed today:

„Well, we have to see whether there will be lower skilled demands at some point, but that will now partly be equalised by the prospective free movement of workers from Bulgaria and Romania in 2011 and 2014. So, in that respect, I think we will not have extraordinarily huge demands in the near future.“ (GER 7-8, BUS; also GER 3, 5-6, 9, 10 GOV)

This imagined EU pool of labour is extended to accession candidates in the recruitment of low-skilled staff via bilateral agreements. The quotas for care workers exclusively recruited from Croatia, for example, is interpreted as a pre-accession simulation of free movement in which wage and qualification differentials are steered and in a way that does not over-challenge²¹ the German labour market (GER 5-6, GOV). As in France this legally manifested relationship between lower skilled demand, supply through free movement of CEE workers and a cutting back on TCN flows is heavily criticised by trade unionists. They expose a dismantling of migrant workers' rights by denial of settlement and integration perspectives to a flexible, free-moving, and often circulating EU workforce that is not even considered as migrants (clear case for this made by GER 3, 5-6, GOV). Debating the situation and employment of posted workers alongside other forms of circular migration, unions fear potential implications of the creation of a 'third category of workers' for wider labour conditions (GER 1, UNI).

Summarising links between German labour migration policy and VoC

The differentiation of rights between high-skilled, skilled and low-skilled migrants is more pronounced in Germany than in France in legislation with the former being offered permanent settlement from the outset. However, the favouring of high-skilled entries relies less on population management through certain kinds of economic enhancement like in France, but instead on a more technical facilitating approach. This confirms VoC assumptions about the role of the German state in economic coordination. Facilitation mainly draws on a novel rights regime that intriguingly mimics the role of social protection in a CME for high-skilled migrants. German officials further divide the treatment of labour migration channels through a VET-prism with admissions into skilled shortages being dependent on VET-equivalent qualification profiles. In this we can observe the state's attempt to render coherent economic governance across labour reproduction systems in a manner supportive of the aspirations for a high and specifically skilled labour equilibrium. Yet the sector- and occupation-based need definitions, though institutionalised in the 'alliance for skilled workers', foremost treat migration as an add-on to the

²¹ Equally, the German decision to phase in free movement in gradual steps after 2004 for CEE nationals is seen as a successful way of managing wage differentials and preventing potentially over-burdening flows from the A8 countries, while the UK is seen as a negative example by most observers in that respect (GER 3, 5-6, 10, GOV; not employers though).

prioritised domestic labour reproduction through the VET system. Moreover, the 'measured' labour market gap is no simple statistical entity referring to current economic demand and supply for a specific job position. Shortages in Germany are demarcated in light of political aspirations about the current and future labour market participation of residents. Activation policy targets are linked to the imagination of a domestic pool of labour that should be self-sufficiently filling lower skilled shortages. This political agenda implies the belief that free movement of workers in the enlarged EU can cater for the total of lower skilled needs, and thus renders obsolete any TCN migration into lower skilled jobs in Germany now and in the future. Regardless of the empirical validity of a perceived absence of migration pressure there is no entry option for migration from poorer non-EU countries into other than high-skilled and skilled jobs in Germany. Labour reproduction is heavily curtailed by political aspirations and role definitions for different categories of workers that VoC cannot explain.

4 Varieties of capitalism and labour migration – an ambivalent relationship

In the 'age of migration' (Castles and Miller 2009) the exploration of ways in which we can, and indeed *cannot* perceive foreign labour recruitment as yet another complementing 'tool for growth' in a VoC framework aspires to be a crucial task. Data from France and Germany suggests that the relationship between labour migration policy and VoC paths of economic coordination is ambivalent. Labour migration policy seems to generate institutional complementarity with regard to the beneficial treatment of high and specific skills, epitomising characteristics of state-enhanced French and enabling German capitalism in several ways. Indeed in the competitiveness narratives in both countries, labour migration serves not just an add-on to resident labour pool but as a distinct strategy of labour reproduction of its own right to compete for the best professionals on a global level. In France, this logical link is accompanied by a nation-centred state-enhanced, sometimes even state-enhancing, promotion of new permits and migration routes associated with the overarching aim to secure the splendour of the nation and economy worldwide. In Germany, we observe a more technocratic management of the high-skilled realm: the state's enabling role is much more constrained to serving the economy and facilitating growth, rather than changing the role and behaviour of companies with the promotion of specific permits. Key to the German regime is the concentration on a favourable rights regime with permanent settlement and free labour market access for the highest skilled migrants. The rights regime almost mimics the role social protection in a CME usually plays to attract domestic specialised workers in a high value and highly diversified product market strategy. The treatment of high-skilled migration in Germany can therefore be understood as a logical extension of VoC mechanisms to institutionally complement and support the CME mode of production and competitiveness. Sectoral coordination patterns are confirmed in both countries in the realm of shortage definitions, the management of

shortage recruitment and in Germany through an institutionalisation of sectoral skills demand measurement in the 'alliance for skills'. Moreover, the specific German fixation on VET-equivalent qualifications in admissions further coheres with VoC economic coordination patterns. Education and training and migration policy complement each other in the state's facilitation of economic growth and productivity and specify the meaning of 'gap' and shortage into which migrant workers can be recruited. VoC overall seems fit to capture how highly-skilled migration is treated and how high and specific skills are defined in the regulatory framework of both countries.

This treatment of the high-skilled realm reflects the importance of the 'knowledge-based economy' as a widely shared orthodoxy in economic policy-making (OECD 1996; Commission of the European Communities 2003). With its policy plan on legal migration and the green paper on an EU approach to managing economic migration the European Commission has linked economic growth and labour migration policy-making, and highlights their relationship specifically in a context of demographic decline and labour shortages in Europe (Commission of the European Communities 2004, 2005). A common response seems to be what interviewees dubbed a 'dual strategy' of domestic education efforts *plus* selective legal migration as an add-on strategy to facilitate labour reproduction in shortage situations in both countries. Indeed the role for labour migration as yet another 'tool for growth' in a globalising economy is echoed by employers and administrators across the rich world (OECD 2009; cf. statement in introduction by a French official). As a result, labour migration policy has become an important aspect of market-making in Europe and cannot be neglected as a factor in economic governance.

For the high-skilled segments of the economy then France and Germany seem to follow Cerny's 'competition state' (1997) in perceiving their role as active promoter or enabling facilitator of competitiveness. The 'stock of human capital' being as important for economic growth as the knowledge-based economy rhetoric suggests, the option of limiting the scope of recruitment to the national realm does not seem acceptable or practicable neither for globally acting companies nor for the policies supporting their growth (Zaletel 2006). However, the 'competition for the brightest minds' has not lead to convergence or integration of labour recruitment patterns, it instead even reinforces *intra-EU* competitiveness (Mahroum 2001; Cerna 2009). Regulative foci differ substantially between the French promotion of emblematic permits linked to the splendour of the country and economy, and the rather technical German recruitment approach using a certain social protection logics to attract the skills deemed necessary. The role of the state, its policies, and associated policy discourses to define the needs of the economy by its migration policies, or to select the parts of the economy that are supported by facilitation of foreign recruitment, cannot be understated in that respect.

The agreement that labour migration is a 'tool for growth' does not translate into harmonised policies, presumably also because member states feel that their distinct patterns of socio-economic regulation

need to be safeguarded. So while labour migration in the ‘knowledge based economy’ is foremost linked to competing for the ‘brightest minds’ across the globe and produces a rhetorical concentration on high-skilled migration as booster for competitiveness, the concept of a ‘knowledge base’ is filtered through the nationally distinct legislative designation of ‘required’ skills. What skill requirements mean, we have seen in the cases presented here, can be very different in different economic settings. This is indeed one of the main VoC claims when referring to high and specific skill needs in CMEs and generic skill needs in LMEs. OECD data suggests uneven patterns of skill needs in a cross-country comparison (OECD 2004). Germany, for instance, has witnessed an especially high loss of lower skilled jobs which has statistically eaten into the growth in higher skilled jobs (details for the German case in: Allmendinger and Ebner 2006). Other countries, such as the UK, however, have seen greater growth in lower skilled jobs, or indeed an equal increase in lower and higher skilled jobs (France). So while an overall trend towards the ‘knowledge-based economy’ is visible in the EU and member states such as France and Germany, its implications and actual operation are differential across countries and economies. Supporting this argument, Menz’ (2009: 261) comparative study clearly indicates continuing divergence of foreign labour recruitment strategies shaped by national policy legacies of economic coordination patterns:

“Coordinated market economy production patterns [...] require mainly highly-skilled well-trained labor migrants that can easily be integrated into a high value-added production pattern [...]. Liberal market economy production patterns necessitate a steady supply of labor migration into both low-wage low-skill service sector positions where poor working conditions and wages are combined with structural flexibility requirements lead to low staff retention.”

Closely linked to the competition state and knowledge-based economy perceptions, we find a clear *political* demarcation of economic shortage definitions in skilled and lower skilled segments of recruitment. This concerns the political definition of borders between the globally recruited knowledge-base and some ‘other’ part of the national economy which the competition state loathes to address. In both France and Germany the imagination and legal enforcement of a self-sufficient resident pool of labour is narrated as a matter of domestic activation policy targets and unemployment protection of the resident labour force. Applying selectivity by nationality policies further draw on conditions shaped by EU free movement of labour, and very distinctly in France the management of post-colonial effects. Legal channels for labour migration from poorer non-EU countries into other than high qualified jobs do not exist. Arguably, these selection mechanisms expose VoC’s incapacity to account for segmented labour markets as well as the political struggles over economic needs satisfaction within them. It is indeed one of the main weaknesses of VoC to hugely concentrate on prime segments of the national

economy and the alleged pulling horses of wealth accumulation while neglecting more auxiliary but equally important parts of the economy.

This exploration of labour migration as labour reproductive strategy in economic coordination of variable capitalisms calls for further research in several ways. The mirroring of typical economic coordination patterns in the German facilitation of high-skilled entries and the French discursive promotion a vision of 'splendour' deserve more attention. Neatly as they seem to fit into paths of competitiveness strategies rhetorically, they also clearly stretch the borders of high-skilled labour reproduction far beyond the national realm, thereby challenging the orthodox nationalistic methodology in VoC. We need to better understand recruitment patterns and labour reproduction beyond the nation state's territory and legislation in today's economic environment. This would imply an empirically richly informed re-definition of the relationships and interactions between national economies and specific globally acting companies, global labour flows and persistent national border regimes, spatially fix domestic labour markets and highly mobile workers, nationally distinct VET systems and globally transferrable and struggled over skills. But while there is certainly a globally-oriented economic reasoning behind migration policy and distinct competitiveness strategies, states seem to retain the political power to define what qualifications are, what needs are, what shortage are, how different needs and shortages should be addressed, and what kind of hierarchy should determine selection for different routes. While high-skilled access is increasingly universalised according to competitiveness logics, and even implemented in common market tools like the EU Blue Card, the management of labour reproduction in lower-skilled shortages is strongly contained within national borders. VoC does so far not address the differential implications of global competitiveness targets vs. acute shortages in labour reproduction strategies. We hence need to study in more depth the here diagnosed complex interactions of distinct competition states with wider legislative conditions curtailed by EU free movement, filtered by policy objectives such as the activation of resident unemployed or the protection of the domestic labour pool, and framed within historical-systemic fixes such as migrant integration regimes linked to past patterns of flows. This complex picture so far depicts a dialectical answer to the question whether labour migration is 'yet another tool for growth': it portrays strong brushstrokes of a clear yes in the high- and specifically-skilled segments of the economy, but equally conveys many shades of *rather not* in the socio-politically curtailed realms of skilled and lower-skilled labour reproduction. Those seem to shed empirical spotlights on an often overlooked dark side of varieties of capitalism²².

²² I owe the reflection on a neglected 'dark side' of capitalist varieties to fruitful discussions with Ulrich Jürgens.

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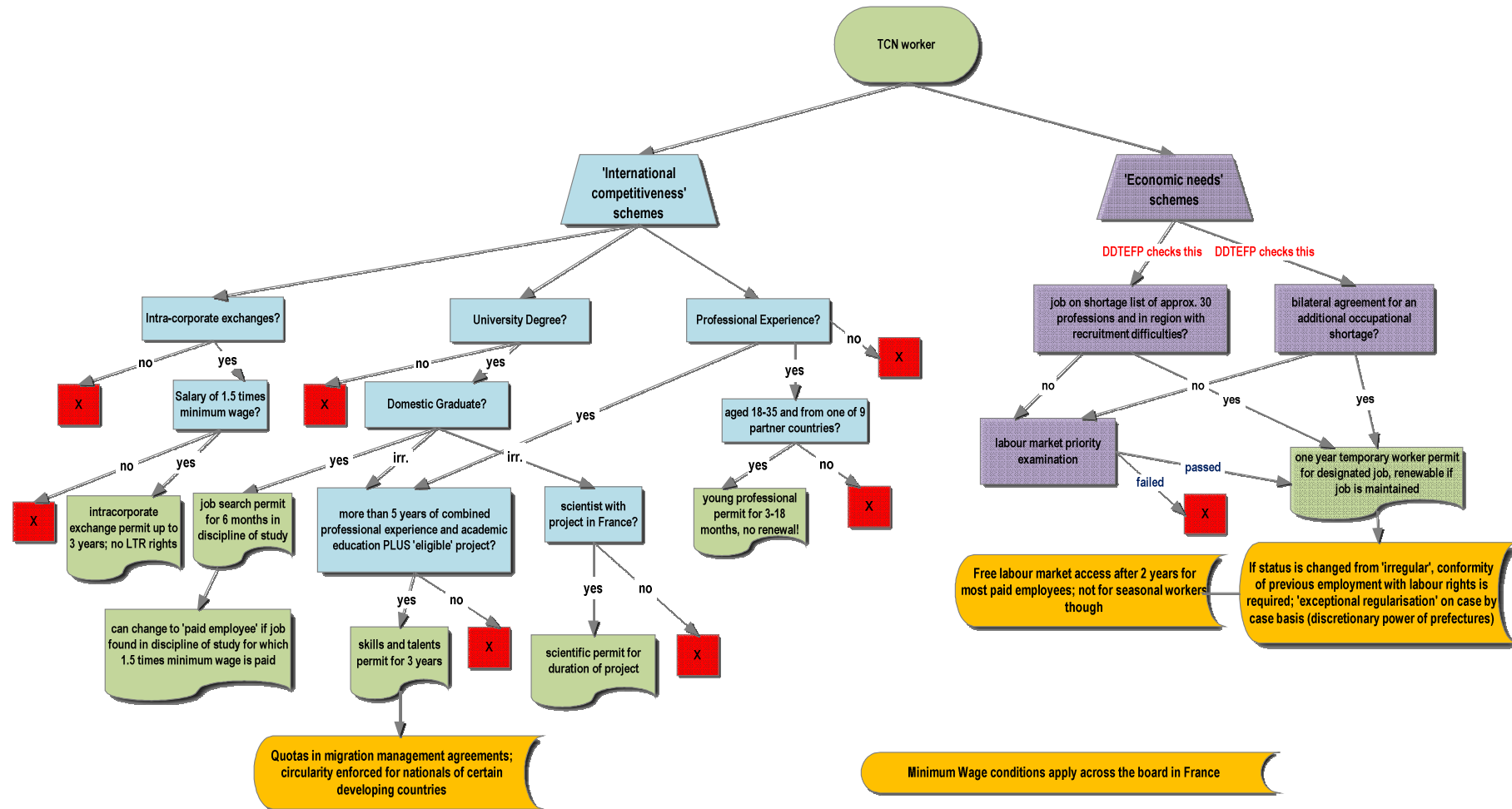
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Annexe 1: Overview of legal entry mechanisms for TCN migrant workers in France (July 2010)

conditions for all: concrete job offer or 'eligible' project outline required for all, self-maintenance without social benefit

rights acquisition: free labour market access after two years of contributions through employment for most; access to long-term residence after five years



Annexe 2: Overview of legal entry mechanisms for TCN migrant workers in Germany (July 2010)

conditions for all: concrete job offer required for skilled and low-skilled, self-maintenance without social benefits

rights acquisition: free labour market access after three years of pension contributions in employment, or after four years of legal residence; access to long-term residence after five years

